

Reward Industry for Innovative Outcomes

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The overarching theme of Better Buying Power (BBP) 3.0 is achieving dominant capabilities through technical excellence and innovation. To help achieve these goals, the Department of Defense (DoD) is reexamining business arrangements, so we can: (1) attract and enable a broader array of industry participants; (2) employ techniques that will motivate industry to deliver tangible results that advance combat capabilities; and (3) recognize that deliberate speed is required to stay ahead and remain on the cutting edge.

Attract and enable industry participation.

The DoD recognizes the need to reach out to firms that have not historically done business with the DoD. We also recognize there is a wealth of innovation in these firms. How, then, can we engage with these nontraditional suppliers, entrepreneurs and inventors and entice them to offer their innovative products and services?

Generally, nontraditional defense contractors avoid DoD contracts, pointing to the excessive federal and defense regulations that drive potentially unreimbursed costs and impose an undesired intrusion into private industry business models. Section 866 of the National Defense Authorization Act for fiscal year (FY) 2011 gave the DoD pilot authority to acquire "military purpose non-developmental items" from nontraditional defense contractors. However, given the current statutory criteria for its use, the DoD has not yet been able to take advantage of this authority, as written. We are engaging with Congress to see how this authority could be amended to allow broader application in this arena.

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In the meantime, the DoD continues to promote streamlined statutory authority to acquire commercial items.

The DoD also has not taken full advantage of “other transaction” authority (OTA) for prototype projects. “Other transaction” refers to the authority under 10 United States Code 2371 to enter into transactions using an acquisition instrument “other than contracts, grants or cooperative agreements.” OTAs generally are not subject to federal laws and regulations governing procurement contracts. When selectively used, this authority can engage nontraditional firms by allowing innovative business arrangements or structures that otherwise would not be feasible or appropriate using standard acquisition instruments. Because OTAs are not bound by the typical constraints of traditional procurement contracts—particularly those around intellectual property—they allow the DoD to attract a wider range of potential industry partners.

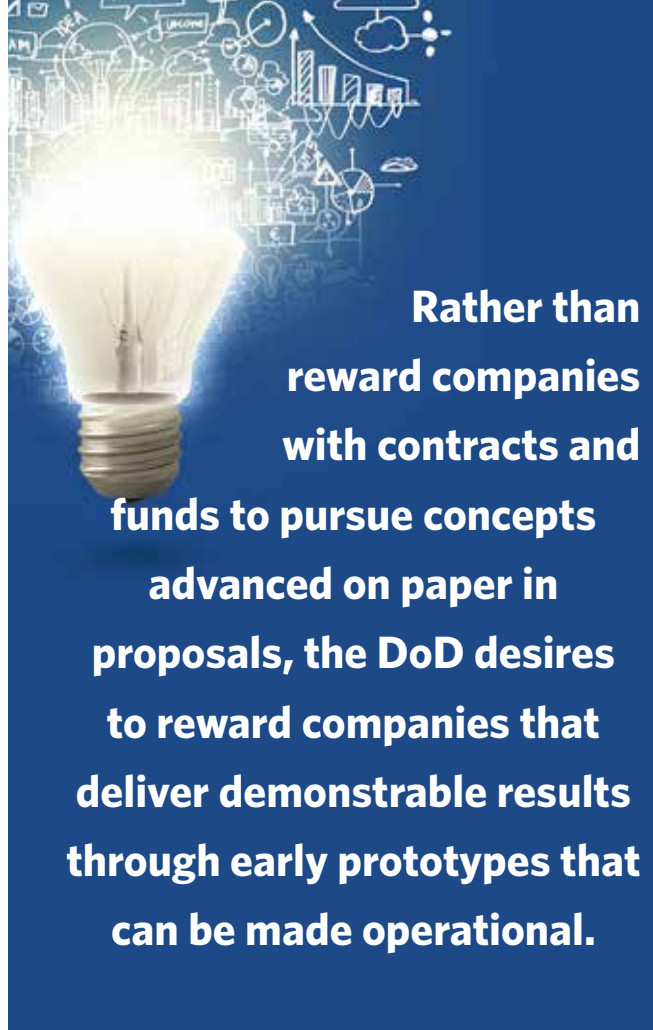
Employ techniques that will motivate industry.

In recent forums, Defense Secretary Ashton Carter and Under Secretary of Defense for Acquisition, Technology, and Logistics Frank Kendall have expressed the DoD’s concern over the risk of losing our technological edge. Advancing our combat capabilities through innovation is something we must do. If the DoD does not succeed, we risk losing our technical edge and degrading our national security.

When considering how the DoD structures its contracts for innovation in research and development (R&D), one would observe that the government typically absorbs the risk of performance by awarding best-effort, cost-reimbursable contracts. While that approach should remain the norm for mainstream R&D and developmental programs, the DoD should consider a paradigm shift away from the “best efforts” default and toward rational use of other techniques. Rather than reward companies with contracts and funds to pursue concepts advanced on paper in proposals, the DoD desires to reward companies that deliver demonstrable results through early prototypes that can be made operational.

During his tenure as Deputy Secretary of Defense, David Packard advanced prototyping as a means to leverage “small, efficient design teams and a minimum amount of documentation” to obtain significant capabilities at relatively little cost. In the foreword of its June 30, 1986, report, the President’s Blue Ribbon Commission on Defense Management—better known as the Packard Commission—concluded that increasing emphasis on prototyping should allow us to “fly and know how much it will cost before we buy.” Prototyping is a familiar concept, and the structuring of acquisition instruments for these efforts has evolved considerably. However, erratic budget cycles have limited the DoD’s ability to fully employ prototyping over time.

Recent interest in prototyping and other similar models led the White House Office of Science and Technology Policy and the Office of Management and Budget’s Office of Federal



Procurement Policy in August 2014 to publish a list of innovative contracting case studies. Noteworthy techniques that were highlighted included OTAs, incentive prizes, and challenge-based acquisitions.

“Incentive prizes” allow agencies to conduct a competition where the winner receives a prize for developing a viable solution for a stated need. The America COMPETES Reauthorization Act of 2010 provides statutory authority for incentive prizes. This allows the DoD to reach beyond traditional defense contractors and increase the number of entities working to solve tough problems, thus increasing the potential for innovation.

The “challenge-based acquisition” model builds on this latitude, fostering originality in industry by being less prescriptive and allowing industry to propose any solution that meets the challenge criteria. Payment is rendered only for successful solutions, resulting in numerous opportunities to leverage the capabilities developed for the challenge.

The DoD’s 2014 report on the Performance of the Defense Acquisition System concluded that “Contractual incentives are effective if (1) we use them; (2) they are significant, stable, and predictable; and (3) they are tied directly to our objectives.” Likewise, we must bear these three tenets in

mind as we employ these techniques to motivate industry to innovate.

Deliberate speed required to stay ahead.

Finally, the DoD must exercise deliberate speed to acquire innovative and dominant capabilities. This requires modified thinking about the DoD's contracting processes. As a rule, we have routinely applied procurement administrative lead time (PALT) to measure the time lapse between a contracting office receiving a complete acquisition package and completing the procurement action. Frequently, PALT was used to reallocate, or even reduce, resources for better procurement office performance. When applied in a vacuum, PALT can be an organizationally damaging metric if we fail to recognize that often our best deals are closed only after we have taken the time to meticulously assess a proposal, develop a reasonable negotiation objective, and exercise the patience necessary to negotiate to the objective.

There certainly is more to deliberate speed than cleverly navigating bureaucracy for the sake of timely deals. The DoD's processes need to encompass a new, more aggressive time cycle regarding innovation on an ever-evolving technological capability. How can the DoD capitalize on narrow windows of opportunity to inject cutting-edge capabilities that enable our warfighters to remain ahead of our adversaries? Value-engineering change proposals (VECPs) offer one method for rapidly injecting innovation into an existing contract. Another is competing requirements that follow an open systems

approach using modular design, which may increase delivery of capability to the warfighter on a faster development timeline. In this same vein, Congress has endowed the Secretary of Defense with Rapid Acquisition Authority (RAA) to waive certain provisions of law, policy, directive or regulation to address any combat capability gap that has resulted, or is likely to result, in combat casualties. This process, managed by the Director of the Joint Rapid Acquisition Cell and governed by DoD Directive 5000.71, allows sponsoring organizations to award a contract in as little as 15 days from the Secretary's RAA determination.

Conclusion

Regardless of whether it is maintaining parade fields, developing the next data management capability or launching the next generation of communication satellites into space, the DoD strives to define work in such a way as to reward industry for successful outcomes. BBP 3.0 takes this to the next level by focusing on achieving dominant capabilities through technical excellence and innovation. We recognize the DoD already has several vehicles available that streamline our burdensome processes and facilitate entry into defense contracting for nontraditional industry partners. We need to capitalize on every opportunity to employ these processes to reach out, attract and reward industry partners for delivering the latest and greatest innovations that meet emerging warfighter needs and maintain our technological edge. &

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